

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 12967, of Frank E. Smith, pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions to change a non-conforming use from a barber shop, part of first floor, to a real estate office (Sub-section 7104.2) and to extend a non-conforming use, real estate office, to the remainder of the first floor and all of the second floor (Sub-section 7105.2) in an R-4 District, at the premises 337 K Street, N.E. (Square 775, Lot 817).

HEARING DATE: July 18, 1979

DECISION DATE: August 8, 1979

FINDINGS OF FACT:

1. The Board at the public hearing of this application, waived the ten day posting requirement. The applicant was out of town, and had posted the property for only seven days.
2. The subject property is in an R-4 zone district on the southwest corner of the intersection of 4th and K Streets, N.E., and is known as 337 K Street, N.E.
3. The site is presently improved with a two story plus basement brick row house type structure. Part of the first floor is currently used as a realty office without a proper certificate of occupancy. The second floor is currently vacant.
4. The applicant proposes to use the entire structure as a real estate office.
5. The last recorded use of the property is that of a barber shop (first floor) as evidenced by certificate of occupancy No. B-96404, issued June 14, 1979.
6. The second floor of the premises is suitable for and has always been used for residential purposes. There is a separate entrance to the second floor.

7. The Board approved a change of part of the first floor from a barber shop to a real estate office with five employees. The applicant failed to apply for a certificate of occupancy in BZA Application No. 12426 within the required six months, and the Order dated August 19, 1977 thereby expired.

8. The area is predominantly developed with row house type structures, three stories or less in height. These structures are used for both residential and commercial uses.

9. The present non-conforming use is a barber shop, a Class II non-conforming use which is first permitted as a matter-of-right in a C-1 zone district. The proposed real estate office use is also a use first permitted in a C-1 zone district. The application therefore complies with Sub-section 7104.2 of the Zoning Regulations.

10. The applicant proposes no structural alterations or expansion into any other structure. Thus, the requirements of Sub-section 7105.2 are satisfied.

11. The applicant testified that eight persons will be employed at the site. The proposed hours of operation are 9:A.M. to 5:P.M. Monday through Saturday.

12. Most of the clientele of the businesses will be directed away from the site, as is customary in the real estate business. This would reduce the number of customers on the site when compared with the number of persons frequenting a barber shop.

13. There was no report from Advisory Neighborhood Commission 2C on this application.

14. There was no opposition to the granting of this application.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the application satisfies the requirements of Sub-sections 7104.2 and 7105.2 of the Zoning Regulations, and therefore can be granted. As to the change of non-conforming use, the Board concludes that such change will represent a less intense use of the property and will not adversely affect the present character or future development of the neighborhood. The proposed use is compatible with the general uses found in the area.

As to the extension of the use to the second floor, the Board concludes that there is no basis to approve such a change. The second floor can easily be used for residential purposes. Approval of expansion of the use would also increase the intensity of use on the property, contrary to the spirit and intent of the Zoning Regulations.

It is therefore ORDERED that the part of this application requesting use of a real estate office on the entire first floor of the premises is hereby GRANTED, and the part of the application requesting use of the second floor as a real estate office is DENIED.

VOTE: 5-0 (William F. McIntosh, Charles R. Norris, Chloethiel Woodard Smith, and Leonard L. McCants, to GRANT, Walter B. Lewis to GRANT by PROXY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 27 SEP 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.